



**DECISION
OF AGENCY
ON APPEAL**

In the Appeal of: [REDACTED]
For: MinnesotaCare and Advanced Premium Tax Credit
Agency: MNSure Board
Minnesota Department of Human Services
Docket: 175134

On April 6, 2016 Appeals Examiner Deborah L. Johnson held an evidentiary hearing under 42 U.S.C. §18081(f) and Minnesota Statute §62V.05, subdivision 6(a).

The following people appeared at the hearing:

[REDACTED], Appellant

Based on the evidence in the record and considering the arguments of the parties, I recommend the following findings of fact, conclusions of law, and order.

STATEMENT OF ISSUES

The issue raised in this appeal is:

Whether the Human Services Judge has jurisdiction due to timeliness.

FINDINGS OF FACT

1. The state agency sent the appellant a notice of closure on December 23, 2015. The appellant submitted an appeal to the state agency on March 14, 2016. Appeals Examiner Deborah L. Johnson held a hearing on April 6, 2016. She closed the record on that date including the identified state agency exhibits A-H and appellant's submitted notices.
2. The appellant applied for health insurance for himself and his wife, Shari Aronson, on December 17, 2013. Both were determined eligible for MinnesotaCare on January 1, 2014. *Attachment A.*
3. On November 10, 2015, the agency mailed a renewal notice to the appellant. *Attachment B.* The appellant did not complete and return the renewal. On December 23, 2015, the agency sent the appellant a closure notice informing him that coverage would cease effective December 31, 2015. *Attachment C.* On January 9, 2016, the agency mailed the appellant a notice informing him that he had until January 20, 2016 to submit the renewal application. *Attachment D.*
4. The appellant replied for health insurance on March 13, 2016 along with his spouse [REDACTED]. Both Mr. [REDACTED] and Ms. [REDACTED] were determined eligible for the Advance Premium Tax Credit (APTC) effective April 1, 2016. *Attachment H.* The appellant is appealing the fact that the state agency determined that he is not eligible for an APTC.
5. The appellant's wife, [REDACTED], received a "Notice of Health Plan Enrollment" dated 1/5/16. This notice stated that "you will be enrolled in MEDICA on the start date above..." The start date was "2/1/16. The notice also states that "if you are currently eligible for Medical Assistance or MinnesotaCare and your eligibility closes before this date, you may not be able to use this health plan." *Appellant's exhibit.*
6. The appellant is not contesting eligibility for APTC through MNsure. He is contesting the closure of their MinnesotaCare prior to the APTC eligibility. The appellant relied upon this notice believing that he and his wife were still eligible for Medica despite the notices that their case had been closed for failure to renew. *Testimony of Mr. [REDACTED]*

CONCLUSIONS OF LAW

1. Pursuant to 45 C.F.R. §155.520(b)(1) and Minnesota Rule 770.0105, subpart 2(D) an appeal must be received within 90 days from the date of the notice of eligibility determination. Minnesota Statutes §256.045, subd. 3 provides that a person may request a state fair hearing by filing an appeal either: (a) within thirty days of receiving written notice of the action or (b) within ninety days of such notice if the Appellant can show good cause why the request for an appeal was not submitted within the thirty day time limit.

2. The appellant is appealing the DHS closure notice dated December 23, 2015 regarding MinnesotaCare. Thus, the appeal as it relates to the MNsure Board should be dismissed. Regarding the appeal of the December 23, 2015 closure notice, the appellant's appeal is dismissed as it is not timely under the law and the Commissioner does not have jurisdiction.¹

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

The MNsure Board DISMISS the appeal as there is no matter of controversy regarding the appellant's eligibility for APTC. The Commissioner of Human Services DISMISS the appellant's appeal for lack of jurisdiction due to timeliness.

Deborah L. Johnson
Appeals Examiner

Date

¹ The notices that the appellant provided for the hearing inform him that the start date for Medica was 2/1/16; the notices also informed the parties that if their MinnesotaCare was closed, they would not be able to use the Medica plan. It is apparent that the parties were closed on MinnesotaCare and that the reopening of Medica was dependent upon them completing the renewal forms, which they did not do.

ORDER

IT IS THEREFORE ORDERED THAT based upon all the evidence and proceedings, the MNsire Board and the Commissioner of Human Services adopt the Appeals Examiner's findings of fact, conclusions of law and order as each agency's final decision.

FOR THE COMMISSIONER OF HUMAN SERVICES as to any effect the decision has on Appellant's eligibility for Medical Assistance and/or MinnesotaCare benefits.

FOR THE MNSURE BOARD as to any effect the decision has on Appellant's eligibility through MNsire for Advance Premium Tax Credits, Cost Sharing Reductions, Qualified Health Plan, and/or the Small Business Health Insurance Options Program.

Date

cc: [REDACTED], appellant
MNsire Board General Counsel
DHS Teresa Saybe 0838

FURTHER APPEAL RIGHTS

This decision is final, unless you take further action.

Appellants who disagree with this decision should consider seeking legal counsel to identify further legal recourse.

If you disagree with the effect this decision has on your eligibility for **Advance Premium Tax Credits, Cost Sharing Reductions, Qualified Health Plan, and/or the Small Business Health Insurance Options Program**, you may:

- **Appeal to the United States Department of Health and Human Services (DHHS)** under 42 U.S.C. § 18081(f) and 45 C.F.R. § 155.520(c). This decision is the final decision of MNsire, unless an appeal is made to DHHS. An appeal request may be made to DHHS *within 30 days of the date of this decision* by calling the Marketplace Call Center at 1-800-318-2596 (TTY 855-889-4325); or by downloading the appeals form for Minnesota from the appeals landing page on www.healthcare.gov.
- **Seek judicial review** to the extent it is available by law.

If you disagree with this effect this decision has on your eligibility for **Medical Assistance and/or MinnesotaCare** benefits, you may:

- **Request the Appeals Office reconsider this decision.** The request must state the reasons why you believe your appeal should be reconsidered. The request may include legal arguments and may include proposed additional evidence supporting the request; however, if you submit additional evidence, you must explain why it was not provided at the time of the hearing. The request must be *in writing*, be made *within 30 days of the date of this decision*, and a *copy of the request must be sent to the other parties*. Send your written request, with your docket number listed, to:

Appeals Office
Minnesota Department of Human Services
P.O. Box 64941
St. Paul, MN 55164-0941
Fax: (651) 431-7523

- **Start an appeal in the district court.** This is a separate legal proceeding, and you must start this *within 30 days of the date of this decision* by serving a notice of appeal upon the other parties and the Commissioner. The law that describes this process is Minnesota Statute § 256.045, subdivision 7.